IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.826 OF 2007
IN
FIRST APPEAL NO.961 OF 2003

Badrinarayan Bansilal Somani ...Applicant
V/s.
Vinodkumar K. Shah ...Respondent

Mr.Sugandh B. Deshmukh, Advocate, for the Applicant. .
Mr.S.M. Gorwadkar, Advocate, for Respondent No.1.

CORAM : J.N. PATEL &
A.A. SAYED, JJ.
DATE : 4TH JUNE, 2007.

P.C. :

1. Heard the learned Counsel for the parties.

2. This Civil Application is filed for granting stay to the execution of the Decree, Judgment and order passed by the learned VIIth Joint Civil Judge, Junior Division, Pune in Special Civil Suit No.347 of 1998.

3. It is contended by the learned Counsel appearing for the Appellant that the Appellant has paid a sum of Rs.10,06,450/- and the Court may permit him to

deposit the balance amount by instalments.

4. The learned Counsel appearing for the Respondent-Plaintiff, decree holder, submits that this Court on earlier occasion have rejected the application for stay as it is a money decree and that taking into consideration that the Respondent is now more than 80 years old, he will not be able to reap the benefits of the decree and the instalments sought in the given changed circumstances, the judgment debtor would never pay the amount during the life time of the decree holder and, therefore, such a request even on equitable consideration should not be entertained by this Court.

5. There is no dispute over the fact that the execution proceedings are pending. Therefore, in the facts and circumstances of the case we are not inclined to consider the application. The application for stay stands rejected.

[J.N. PATEL, J.]

[A.A. SAYED, J.]